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A TREATISE,

SHEWING

How Useful, Safe, Reasonable and Beneficial, the

Inrolling & Registring

Of all *Conveyances* of *Lands* may be to the Inhabitants of this

KINGDOM.

By a Person of Great Learning and Judgment.

The Second Edition.

LONDON,

Printed for Mr. Watson, at the *Three Daggers*, near the *Inner Temple Gate*, in *Fleet-street*, 1695.

TREATISE

How Used and Reckonable and

Mode of Keeping Records

Natural Conveyance of Lands

LONDON.

A TREATISE Concerning *Inrollment* of *DEEDS.*

IN the Buſineſs in Agitation touching Inrolling of Deeds, Theſe things conſiderable.

1. The Miſchief propounded, to be remedied.

2. The Remedy to be applyed.

The Miſchiefs at preſent to be remedied are,

1. The great Deceit committed by Perſons by ſecret Judgments, Mortgages, Conveyances, and Settlements; whereby Purchaſers are oftentimes deceived, and Creditors defeated. And this the more conſiderable in *England*, becauſe indeed the great Inland-Trade we have, is the Trade of Buying and Selling of Lands, and the great Security that is ordinarily given to Creditors and Lenders of Money is by Security of Land.

2. The Multitude of chargeable and difficult Suits in Law, occaſioned by Preconveyances, ſecret Mortgages and other Incumbrances, which probably

bly would be avoided and leſſened, if all Mens Eſtates lay open to the View of others.

The Remedy propounded is, by an Office of Inrollment, or Regiſtry of Conveyances.

In this, as in all other Applications of Remedies to any Miſchiefs, theſe things muſt be conſidered.

1. How and by what means the Remedy may be commenſurate to the Miſchief?

2. Whether the Remedy or the Application thereof in ſuch manner as it may be commenſurate to the Miſchief, be feaſible or not?

3. Admit it be, Then what Inconveniencies may otherwiſe be introduced by the Application of the Remedy.

1. If the Inconveniencies introduced by it be greater than the Benefit it gives, the Remedy is to be rejected.

2. If the Inconveniencies thereby occaſioned be over-weighed by the Benefit, Then it may be Entertained.

But with due Conſideration or Proviſion that thoſe Inconveniencies introduced by the Remedy, may with as much Prudence as may be, be obviated, prevented, removed, or very much allayed by ſuitable Proviſions againſt them.

The firſt of theſe Conſiderations, namely the Application of the Remedy in a due Commenſurateneſs to the Miſchief, muſt needs be by taking Care that there be no Room or Inlet for any ſuch Deceit by ſecret Conveyances or Incumbrances of Eſtates: *For if any one Leak be left unſtopt, the Veſſel will ſink as well as if more were open.* And if any one Device be left unprovided for, thither will fraudulent Perſons betake

betake themſelves, and get out of the Remedy intended.

Therefore,

1. All Judgments, Statutes, and Recognizances, muſt lye open to view, either by Inrolling or Regiſtring them, becauſe thoſe charge Lands.

2. All Truſts touching Eſtates muſt be Inrolled or Regiſtred, for now by the Power of Courts of Equity, theſe do charge Lands, and ſometimes in the hands of the Fourth or Fifth Purchaſor, if there be proof of notice. Truſts.

3. All Mortgages, as well forfeited as not forfeited, Defeazances in Nature of Mortgages, muſt be Inrolled.

4. All Powers of Revocation and limitting of new Uſes, Powers of Letting or Charging Eſtates, muſt be Regiſtred or Inrolled; for theſe may alter the Title of Lands, and are ſometimes contained in diſtinct Deeds, from the Deed whereby the Eſtate is ſetled.

5. All Declarations of Uſes and Truſts upon Fines, Recoveries, and other Aſſurances.

6. All Grants of Rents, Commons, Profits, all Conditions and Reſervations of Rents.

7. All Leaſes, for Years or Lives, made by any Perſon either with Rent, or without it.

8. In brief, All Feoffments, Grants, Releaſes, Confirmations, Wills, Forfeitures, Eſcheats, Commons, or whatſoever other Eſtate or Intereſt in them.

For if any of theſe be not Inrolled or Regiſtred, or ſome way rendred open to the view of every Perſon, a Man may be cheated or deceived. And what is odds, whether a Man be deceived by a ſecret Mortgage or Judgment? or by a ſecret Leaſe for Lives or Years, or by a ſecret Settlement, or Deviſe or Will? And all theſe muſt be ſecret to him that hath no ready means to diſcover them: The Remedy whereof is deſigned in this publick Regiſtry.

And yet further, If the Remedy be intended as large as the Diſeaſe, this Regiſtry muſt not only look forward, but it muſt look backward, (*viz.*) That all Eſtates and Incumbrances now in Being, as well as thoſe that ſhall be hereafter, muſt be laid open to the View, otherewiſe the Proviſion is not commenſurate, there being in all probability a Stock of latent Incumbrances and Charges upon Lands, which may ſerve at leaſt to deceive and cheat this preſent Age, and the next alſo. Therefore unleſs there be ſome Notification of preſent Incumbrances as well as future, we but lay up a Security, that it may be of uſe an Hundred Years hence, and leave the preſent and intervening Ages in as bad, if not worſe Condition, than we find them.

Therefore a Remedy commenſurate to the Miſchief muſt needs provide for the Regiſtring all E-

ſtates

ſtates and Intereſts, and Charges of Lands, and that as well for the time paſt, as time to come; otherwiſe the Plaiſter is too narrow for the Sore.

2. The ſecond Conſideration is, Whether this be poſſible to be done? Indeed it is a fine thing in the Theory and Speculation, and a Man that fixeth his Thoughts upon the good that might come by ſuch an Expedient, without troubling himſelf with the Difficulties that lie in the way to it, may drive it on very earneſtly; but he that ſhall conſider the Difficulty of it, will eaſily ſee that it is but a Notion and Speculation, and cannot be effected or reduced into practice, at leaſt not without immenſe Confuſion.

The Difficulties that attend this Deſign, are either ſuch as relate to the Inrolling of Eſtates now in Being; or ſecondly, The Inrolling of Eſtates hereafter to made or granted; or Thirdly, Such Difficulties as relate to both.

1. The Difficulties that attend the Inrolling of Eſtates now in Being, or paſt, theſe ſeem inſuperable. In order to the diſcovery hereof, we muſt ſuppoſe, that either every Man ſhall be at Liberty to Inroll or Regiſter his Eſtate, or it muſt be under this Penalty, that if he fail herein, he muſt loſe his Eſtate. If we ſuppoſe the former, then every Man is ſtill at Liberty, as he was before, and nothing is effected by it. Liberty. Penalty.

If the Latter, (*viz*) That he ſhall loſe if he do not Inroll the Eſtate he hath, or which is all one, it ſhall be in the power of him that Inrolls a Subſequent

quent Title to make the former, not Inrolled, void; Then either that Inrollment or Regiſtry muſt be barely of his Claim, or ſome Abſtract of his Title; or he muſt Inroll the Tenor of the Deed, or Evidence by which he Claims.

If we ſhall ſuppoſe the former, then theſe things will be Conſiderable. *Firſt*, What if he doth in ſome things miſtake his Claim? It may be, he thinks he has an Eſtate in Fee-Simple, when it is but in Tail, It may be an Eſtate Abſolute, when it is Conditional; Certainly he that Claims by an Abſtract, had need of a very good Counſel at his Elbow, to give him ſound and uncontroulable Advice, in drawing it up; otherwiſe he that hath a good Title may loſe it for want of a right Abſtract of his Title by which he Claims. Surely therefore every Man that hath a good Title, and can poſſibly come by the Deed or Evidence by which he Claims it, will Inroll his Deed at large, for fear he ſhould omit any thing eſſential to his Title. *Secondly*, Or elſe it is intended, that though he miſtake his Title, yet if he enter as much as he thinks fit, it ſhall be ſufficient to preſerve his Eſtate. And if this be intended, the whole deſign of Regiſtring and Inrolling will End in a publick Deceit and Inſecurity, when perchance in the Event, the Eſtate or Intereſt Claimed, doth materially and ſubſtantially vary from what is Regiſtred. *Thirdly*, Again, if ſuch an uncertain Claim ſhall be allowed, not made good by Deeds or Evidences, this Office will breed more Diſturbance in many Eſtates, than any imaginable Deceits or Frauds beſides can equal: For any Man ſhall at a venture make what Claims, and

Miſtakes.

Abſtracts.

Deed at large.

Claims enlarged.

ſet

ſet up what Pretences he pleaſes to any Mans Eſtate in *England*, and ſhall be admitted to Enrol them in the Regiſtry, and the Perſon injured ſhall be either remedileſs, or driven to more Suits and Expences, to vindicate his Title, than now he is neceſſitated unto, to diſcover a Fraud in a Seller. Suits increaſed.

It remains therefore neceſſary, that whoſoever will Inrole any thing in being, he muſt produce ſome Authentick Deed, or other Record, to warrant what he would have Inrolled, and then there muſt be Inrolled at leaſt ſo much of the Deed, or Evidence that concerns, *Firſt*, The Parties, Grantor and Grantee. *Secondly*, The things Granted. *Thirdly*, The Eſtate Granted. *Fourthly*, All thoſe parts of the Deed, or Evidence, that have any Influence upon the Eſtate: as Rent reſerved, Conditions, Powers of Revocation, of Alteration, of Leaſing, the Truſt, *&c.* and thoſe other things that have an Influence upon the Eſtate; and without all this done and truly done, the Purchaſer or Lender, is as much in the Dark as before, and Cheated under the Credit of a Publick Office Erected to prevent it.

This being the State of the Buſineſs in relation to Inrolling of things paſt; there follows next, thoſe Difficulties that render the Deſign either Impoſſible or Fruitleſs.

1. Many Perſons that have Titles, have them by Livery without Deed, or cannot bring the Deed to the Office to be Regiſtred, or Inrolled, becauſe the Deed it ſelf is not, nor by Law cannot be in their Cuſtody

Remainders

Wills.

Purchasors.

Custody, at least *de facto* is not in their Custody: as they that Claim Remainders where the Custody of the Deed belongs to others, those that Claim by Wills, either concealed, or in the Hands of Executors, and many have lost their Deeds in the late Troubles, and to compel Possessors, especially Purchasors of Lands, to discover the Deeds, which possibly they have for the Security of their Title, or to discover the defects of their own Assurances to make others Mens Title appear; and this under a Penalty or Action were an unreasonable thing, and would create a general insecurity of Purchasors.

Mean Conveyances.

If (44. *Eliz.*) *A.* Conveyed his Land to *B.* and 12. *Ja.* 1. *B.* Conveyed it to *C.* and 3. *Car.* 1. *C.* conveyed it to *D.* and 20. *Ca.* 2. *D.* Conveyed it to *E.* must all these Conveyances be Inrolled or only the last? If all must be Inrolled, then if any one Mans Conveyance be omitted, suppose it from *A.* to B. then the omission of the Inrollment thereof, will give a Title to *A.* or his Heir, to make a Claim to this Land, if only that from the last Seller, then is the Purchaser in the Dark still, what Estates were in the antecedent Owners, and how Derived, and so the Design ineffectual to the end proposed.

3. If all the mean Conveyances of Mens Estate, should be Inrolled, *Westminster-Hall* would not hold the Inrollments, and the Charge thereof would be above two Millions of Money; nay, if we should suppose the present Estates of the present Owners of Lands in any one considerable County, were to be Inrolled, the Charge would be intollerable, and the

Bulk

Bulk it ſelf would be utterly uſeleſs: Suppoſe in *London*, 20000. Houſes, and each Houſe to have but two Titles, that is, that of the Owners of the Inheritance, and that of the preſent Leſſee, (tho' ſome have many more concurrent and coincident Titles to recompence thoſe that may have poſſibly leſs) this would bring to the Inrollment Office 40000. Deeds, the Inrollment of every Deed at leaſt 10 s. would produce 20000 Pound and about 200. Volumes of Velum Books, which would take up the Imployment of many Clerks, and when the work was done, the Volumes too vaſt and numerous to be made uſe of; and what would be done then with the many Leaſes of Weſtern Mannors, which yet have many under Titles derived under them?

4. But how ſhall theſe Deeds come to be Inrolled? he that made them perchance is Dead, or at leſt will not come to acknowledge it, and if every Man that brings a Deed ſhould have it Inrolled without acknowledging it by him that made it, any forged Deed may be Inrolled, and Men in a little while, may loſe their Eſtates, by the Countenance that a forged Deed ſhall receive, by being Inrolled among the publick Records of the Office; for the Officer can never examine the Truth or Reality of the Deed, or if he could, it would not be reaſonable that Mens Eſtates ſhould depend upon the Judgment of any Ignorant Clerk, or Officer.

2. As for the Inrollment of all Conveyances and Deeds for the time to come, this labours under great Difficulties alſo, though not ſo many and ſo

great, as the Inrollment of things paſt; becauſe here the Perſons that make the Deeds may poſſibly come to acknowledge them before ſome Perſons publickly intruſted, as two Juſtices of the Peace, or the Maſter of the Office; yet this has alſo great Difficulties.

Acknowledgment.

1. Many Mens Eſtates are by Will, where the Proprietors of the Eſtates have not the Cuſtody of the Will to produce.

2. How ſhall the Officer before whom the Will is produced, if it be produced, know whether the Will be true or forced, or revoked? ſince the Deviſor is now Dead, that made it; and ſurely it can't be intended that every Man that makes his Will of Land ſhall Inroll it in his Life-time, ſince he may often change, revoke, and alter it.

Wills.

3. Although it is a very great Inconvenience and fit to be remedied by Act of Parliament, that many times in Courts of Equity, Truſts are averred without and contrary to Deed, yet certainly ſo long as that Uſage is allowed, all Truſts of Eſtates cannot be Inrolled becauſe they be oftentimes in Averment and Proof without Writing, and ſo do oftentimes the uſes of Fines, which as yet have influence into the Eſtates of moſt Men, and yet as the Law now ſtands are averrable without Deed.

Truſts.

See *Act of Fraud and Perjuries.*

4. The Charge of Inrollment of all Incumbrances and Eſtates of Land, even for the future will,

in

in the ſpace of few Years, grow vaſt, and the Regiſtry or Inrollment-Office will grow ſo Voluminary in ſeven or eight years in moſt Countries, that they will become uſeleſs and unmanageable to the Ends propounded, as would eaſily appear upon a *Medium* or Eſtimate of the Eſtates, Conveyces, Leaſes, Judgments, and other Incumbrances that grow up in one County, in one Year.

3. Theſe Difficulties that are common both to Inrollment of things paſt, and to come, are principally theſe:

1. The Place where this Regiſtry ſhall be kept, if in *London*; all Men muſt come up thither to Inroll their Deeds, which will be intollerable: If in the Countries where the Lands lye, then *London* being the Great Center of Buying and Selling, a Man that deals here at *London*, muſt be forced to ſend into *Cornwall* or *Northumberland*, to ſearch the Regiſtry there. Ubi.

Again, What ſhall be done, where one Conveyance comprizeth Lands in ſeveral Counties? or where a Man, having Lands in ſeveral Countries, Acknowledgeth a Judgment or Statute, ſhall this be Regiſtred in every County? And if it ſhall, how ſhall the Commiſſioners know all the Counties where his Land lieth? and how ſhall the Deed in one Several Counties.

County be tranſmitted to another, or muſt it be acknowledged in every ſeveral County, and by the Party there Inrolled?

Judgments. &c.

2. Again, How ſhall Judgments that Charge Lands or Statutes, Merchant, or the Staple, be authentickly Regiſtred in every County? and what Warrant ſhall be ſufficient for it, eſpecially ſince there be ſo many Courts of Record in *England*, wherein Judgments given, will charge Lands in other Counties, as in the Courts at *Weſtminſter*, the Courts of Grand-Seſſions, *&c.*

So that as to Eſtates and Incumbrances already before this time created, the propounded Regiſter ſeems utterly impoſſible and unpractical: As to Eſtates and Incumbrances for the time to come, tho' more practical, yet very difficult, cumberſome and chargeable, and ſcarce applicable to the End deſigned, if it be compulſary upon all to do it.

Compulſion.

3. As to the Inconveniencies, I ſhall mention ſome, and of thoſe, ſome applicable to both Propoſals, both of Regiſtring things paſt, and to come, tho' far greater in relation to the time paſt.

1. Whereas many Men perchance, for many years have quietly enjoyed their Eſtates, although perchance ſome little Defects there might be in their Evidences, as for want of ſome Ceremonies, Circumſtances or Words: Now by Inrolling of theſe Deeds, all

theſe Defects will be expoſed to the View, Obſervation and Search, and Diſcovery of others; whereby buſie Projectors will be picking holes in the Titles and Eſtates of many Men, which are now quiet and at reſt. This will diſcover the Flaws and Defects of all Mens Aſſurances, and multiply Suits and Queſtions. Suite; multiplied.

2. Whereas it many times moves great Diſtempers in Families, when Children ſhall ſee and know how their Parents diſpoſe their Eſtates among them in their Life-time. This Courſe will force the Father to Enroll all his Settlements, whereby all his Intentions will be diſcovered in his Life-time, which may breed great Unquietneſs and Animoſity; or otherwiſe, it will put it in the Power of the Heir if the Deed be not Inrolled, to ſell the Land, and ſo defeat all his younger Brothers and Siſters.

3. Whereas ſome are deſirous that the Greatneſs of their Eſtates may not be known, to expoſe them to Envy and Detraction; Others are deſirous that the Weakneſs of their Eſtates may not be known, to expoſe them to Contempt or Queſtion. This Regiſtring of Men's Eſtates and Intereſts, diſappoints both, even where there is no occaſion for a Purchaſor to be concerned, nor any Deſign of Fraud in either.

4. It is worth Enquiry, whether the Proſpect of this Buſineſs is not ſo much to remedy old Inconveniencies, as to introduce new, by Erection of new Offices and new Officers, Salaries, Fees, which will

will bring in an exceſſive Charge upon the People, and is always accompanied with further Exactions; ſometimes for Expedition, ſometimes for preference of one Man's Inrollment before another, which will certainly be found together with great Delays, eſpecially where the Buſineſs of the Office is like to be very great.

Charges and Miſchiefs.

Againſt Compulſion.

Upon the whole matter, I think that the Compulſion of every Man to Inroll or Regiſter his Writings and Evidences of his Land, whether paſt, or future, under any Penalty, is unpractical, and utterly inconvenient and dangerous to Men's Eſtates.

And now if it be Objected, That theſe Difficulties and Inconveniencies be but imaginable, or eaſily ſuperable by prudent Proviſions, and all the Inconveniencies objected, may be in like manner remedied, ſince we daily ſee in Copyhold Mannors, and in ſome great Precincts, as for Inſtance, in *Taunton* Mannor, all Men's Eſtates are Inrolled, or ſo Regiſtred, that it prevents all poſſible Fraud by Preconveyances, and hath brought great Quiet and Security to Men's Eſtates, without the leaſt Sence of any of the objected Difficulties or Inconveniencies.

I Anſwer.

1. That the Caſes are not alike Inrollments of Copies of Court-Roll, or within a private Mannor ſerves but a ſmall Precinct, but the thing in propoſal intended for a great Kingdom.

2. There

2. There it hath been long ſince begun, and ſo hath been carryed down in Succeſſion of Time, and rendered Familiar, and Cuſtom and Uſage hath accommodated the Practice: But if it were now to be begun, and take in, eſpecially all former Eſtates, it would be very difficult to be put in ure, even in a conſiderable Mannor or Burrough; much more in a great Kingdom.

It is true, That if all Conveyances of Lands were for the time to come Regiſtred, it would in proceſs of time do much good, and prevent many Suits and Frauds, tho' perchance the preſent Age may not find the Advantage of it. And certainly, it was the great Deſign of the Statute of the 27. *H.* 8. of Inrollments to have brought up that Method of Aſſurances, and had it been purſued, it had before this time been brought to great Perfection, and done much of that Good which is now intended by it. 27. *H.* 8.

But to make the Deſign at this day Practical and Uſeful, theſe things muſt be obſerved.

1. In reference to Deeds of all ſorts.

2. In reference to Wills.

3. In reference to Judgments, Statutes and Recognizances.

1. There-

1. Therefore in relation to Deeds, theſe things are neceſſary to make the Deſign Practical and Uſeful.

1. That it be Enacted that no Eſtate paſs from Man to Man (by Act executed in Life-time, other than by laſt Will) for above Years, without Deed

Act of Frauds.

2. That no Uſe or Truſt of any Eſtate be raiſed, but by Deed expreſſing the ſame.

3. That to prevent the extream length of Covenants in Deeds, there be thought of certain Words that may carry in them the Strength of Covenants or Warranty's; As for Inſtance, [*Dedi*, or *Give*,] to include a Warrantry and Covenant againſt all Men, and alſo for further Aſſurance, [*Grant*] to include a Warranty and Covenant againſt the Party, and all Claiming under him, and for further Aſſurance within Seven Years, [*Deliver*] to include a Warranty and Covenant againſt the Party and his Anceſtors, and all Claiming under that, and for further Aſſurance, within ſeven Years; and divers Inſtances of this kind might be contrived by ſhort Words to include Large Sentences: Thus it was done by the Statute of *Bigamis*, and this would ſhorten Deeds, and abridge their Charge of Enrolling.

Words to mean more.

Stat. of *Bigamis*.

4. That

4. That all Deeds to be Inrolled be Acknowledged before a Judge of *Weſtminſter-Hall*, Maſter of the Chancery, as now; or before two Juſtices of the Peace in the County, and they to have Power to examine Feme Coverts to prevent the Charge of Travel, and of Commiſſions to take Acknowledgments. Feme Coverts.

5. That all ſuch Deeds as are to be Inrolled, be Inrolled either in the Courts at *Weſtminſter*, or in the Counties, before the Clerk of the Peace of that County where the Landlies, or in Cities, according to the Stat. of 27. *H.* 8.

This will prevent the needleſs multiplying of new Offices, and the gaping of People after them, and perform the Buſineſs according to the known and ſettled Uſage already Eſtabliſhed by Law, without introducing Novelties more than need. Offices.

6. That if the Land lye in ſeveral Counties, the Inrollment at the Courts at *Weſtminſter* to ſuffice: If Inrolled in one County, it may be ſufficient for the reſt, only a ſhort Abſtract or Certificate thereof to be ſent at the deſire of the Party to the Clerk of the Peace, of the other Counties, ſubſcribed by him, to be Entred with the Clerk of the Peace of the other Counties where the Land ſlie. Inrollment at *Weſtminſter*.

Time when.

7. That no Deed be Inrolled after Months, from the time of the Caption.

Relations.

8. That the Relation of the Inrollment of Deeds to bind or prevent mean Incumbrances, relate only to the time of the Caption at fartheſt.

9. That twice in every Year at leaſt, there be tranſmitted from the Office of Inrollments in Chancery, Abſtracts or Certificates of Inrollments to the ſeveral Clerks of the Peace of thoſe reſpective Counties where the Lands lie, under Seal, and ſo from the Clerks of the Peace of the ſeveral Counties, to the Clerk of the Inrollments in Chancery, that they may be reciprocally Entred: This to be done under a pecuniary Penalty, but not to invalid the Inrollments.

Pecuniary Penalty.

Fees.

10. That ſome ſettled eaſie Fees may be Eſtabliſhed by Act of Parliament, for the Caption, Inrollment, and Certificates.

11. That no Penalty lye upon any Party for not Inrolling his Deeds, farther then by Law is Eſtabliſhed already, but only by Act of Parliament, a conſiderable Advantage to him that Inrolls. This will invite Men to do it voluntarily, and in a little time will carry the greateſt Courſe of Aſſurance in this Method, without any Grievance or Inconvenience.

12. That

12. That the Advantages propounded be ſuch as theſe:

1. That whatſoever Eſtate, Reverſion, Remainder, or Contingent Remainder, or Uſes, a Man may barr, by Fine or Common Recovery, with ſingle or double Voucher, he may barr by a Deed enrolled; *except as to the Point of Nonclaimes*, Proviſion for Infants and Ideots. Common Recoveries, and Fines.

2. That a Deed Inrolled may ſupply the defect of Livery and Seiſin, and Attournment: But not as to forfeiture of the Eſtate of him that makes it. This is partly done already by Law.

3. That Uſes may be as well created and executed upon a Deed Inrolled, as upon a Fine or Feoffment, or Releaſe. Uſes on Deed enroll'd.

It is True, That by thoſe Advantages, and ſome others that may be added, moſt of the Aſſurances in *England* will run this way; and thereby,

1. The Offices of Clerks of the Peace, and Inrollments in Chancery, will grow to be great and beneficial Offices.

2. The Offices relating to Fines and Recoveries, will ſink very Low, as the Prothonotaries, the Chyrographers, *Cuſtos brevium*, Clerk of the King's Silver, Clerk of the Inrollments,

and the Practice of many Clerks that uſually deal in Fines and Recoveries.

3. The King's Fines upon Originals, and the Commiſſioners for the Compoſition of Poſt-Fines, will decay in time; which will be a Loſs to the King; The Keeper of the Great Seal, the Maſter of the Rolls, and Curſitors, and Lords of Liberties.

But to this I ſay,

1. The ſwelling of theſe Offices may be corrected to the publick Benefit, by making the Rates of their Fees lower.

2. The Offices, that will by this means be impaired, may be conſidered, if it be thought fit, by ſome Allowances out of the Offices of Inrolments, though the Officers of the Court of Wards found no ſuch Proviſion for them: And if ſome Counties were allotted to the Common-Pleas for Inrollments, that might eaſily be applied, and diſtributed ſo as to countervail the Loſs.

Common-Pleas.

3. The Loſs of Fines, and Poſt-Fines, may be abundantly recompenced by a very ſmall Allowance upon every Deed inrolled; and yet the Subject be a Gainer by it.

And as theſe ſmall Difficulties may be eaſily recovered, ſo theſe great Conveniencies would enſue.

1. No

1. No Man would be compelled to Inroll his Deeds, and yet every Man might take the Advantage of it that pleased.

2. The old Course of Fines and Recoveries, not taken away, but left for every Man to use that would, though a cheaper and readier Course of Assurances be substituted.

3. Whereas now no Fine, or Recovery can be had in Vacation time, whereby many Men, before they can settle their Lands by this means, Entailes and Feme Coverts may be barred, and settle their Estates as they have occasion. Vacation time.

4. It would take away the Charges of Travel to *London*, by Persons living remote; the Charges of Commissions, *Dedimus potestatem*, Warrants of Attorney, and all those incident Charges of Fines and Recoveries: So that a Man that is necessitated to sell his Land, though it be but an Acre, cannot do it, by Fine or Recovery, under Fifty Shillings, may be able, by this means, to perfect his Assurance for Ten Shillings. Cheapness.

5. It will, in few Years, carry the whole Track and Current of Assurances in a way that may be open to all Men, and yet without Compulsion to any.

6. It

6. It will prevent thoſe many Defects in Aſſurances by Fines and Recovery; which conſiſting of ſo many Parts, and paſſing through ſo many Hands, are ſubject oftentimes to be Reverſed: It may be, for the Loſs or Miſtake of an Original Writ, or ſome Defect. And thus far for Inrolling of Deeds.

2 Touching Judgments and Statutes. The Statute of 27. *Eliz.* hath provided in a good Meaſure for the Inrolling of Statutes: But as for Judgments it is a Buſineſs of great difficulty how to Inroll them eſpecially becauſe it cannot

27. *Eliz.*

1. Be readily known where the Party lives, or where his Land lies by the Miniſters of that Court where the Judgment is given, and ſo it will be difficult to tranſmit the ſame into the Countries where the Land lies.

2. If that were all known, yet it might be hard that a Copy of a Judgment, in Paper, ſhould be a ſufficient Warrant to enter it with the Clerk of the Peace in the County.

But all the way that ſeems to be practical in this kind, were for the Clerks of the ſeveral great Courts, to extract out of the Rolls, the Abſtracts of the Recognizances and Judgments, for four or five Years paſt, or more; and alſo for the time to come, as they are entred, and to digeſt them in Alphabet, according to the Surname of him that acknowledgeth them,

them, *&c.* and ſo to preſerve them for publick Inſpection, this might be eaſily done, and a Sallary or Fee ſetled by Act of Parliament for the reſpective Offices employed therein. Only there are theſe Inconveniences which muſt be remedied.

1. The Retroſpect of a Judgment to the beginginning of a Term, though acknowledged, as may be, long after.

2. The late Inrollment of Judgments confeſſed, ſo that there is little appears of Record, but only in private Remembrancers.

3. The keeping of Paper Recognizances acknowledged in Courts for many Days and ſome Months, without Inrolling them as they ought, and yet by relation to the time of the Caption, many times over-reach Men's Purchaſes and Securities: Theſe might be remedied by the Orders of ſeveral Courts without an Act of Parliament, if ſtrictly enjoyned and obſerved, though a ſhort Act would eaſily make the Remedy univerſal.

3. *And laſtly*, Touching Wills, the Difficulty will be very great to put them into better Order, than they are at preſent, abating ſome few things.

For

For the Deviſor himſelf muſt not Inroll his Will, for the Reaſons before given, and eſpecially for that it is alterable every Hour, and many times made in Extremity, when there can be no authentick Officer to Receive or Atteſt it.

And when he is Dead, the Will comes to the Hands of the Executors, and it may be controvertible, and if the Entry then of it by an Executor, or one that pretends to it, ſhould render it Authentick, it may prejudice the Juſt Right of others.

And on the other ſide, oftentimes the Deviſee of Lands hath not the Cuſtody of the Will, and it would be unreaſonable that the Executor's Neglect ſhould prejudice the Deviſee's Intereſt.

I know not how the Caſe of Wills can be made much ſafer or better than it is, at leaſt unleſs the Inſinuation thereof were under the Examination of Temporal Courts; but that perchance would be thought too great a Charge.

Only it were well, if ſome greater Solemnity were required by Law in Wills, whereby Lands are deviſed; for ever ſince the Stat. of 34. *H.* 8. more Queſtions, not only of Law, touching the Conſtruction of Wills,

Stat. Fraud.

Wills, but alſo of Fact, ariſe, than in any five General Titles or Concerns of Lands beſides. As, Whether a Will were made or not? Whether revoked or not? Whether the Party that made it were of a diſpoſing Memory, or not? which multiplies Suits, and makes great Uncertainties.

But an Act may be neceſſary to prefix a Time and Order for Claims to burned Houſes in *London*, and a Judicatory ſettled for the determining thereof ſummarily; becauſe otherwiſe, poſſibly Latent Incumbrances may ariſe upon thoſe that have been at great Charges in Building. *London* Burnt.

But it were far better, that there might be an Act to quiet the Enjoyment of thoſe that have built according to the Decrees, and under the Rules already decreed, becauſe their Charge hath made the Improvement, and ſaved it from the Forfeiture which would otherwiſe have happened; therefore no Reaſon their Poſſeſſion ſhould be diſturbed. And beſides, all Perſons that had any pretence of Claim, either have made it, and their Claims examined by a publick Judicatory, or might have done in ſo long a ſpace, which they have neglected, and it hath been their own faults.

Therefore this Case, touching the burned Houses being particular, in a particular Precinct, and thus circumstantiated, will not make any Parallel Case to Universal Registers.

FINIS.